



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,148	01/30/2002	Linda Sharp	17706-00004	3551
7590		01/07/2008		
John S. Beulick				
Armstrong Teasdale LLP				
Suite 2600				
One Metropolitan Sq.				
St. Louis, MO 63102				
			EXAMINER	
			CHOI, PETER H	
			ART UNIT	PAPER NUMBER
			3623	
			MAIL DATE	DELIVERY MODE
			01/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/066,148

Applicant(s)

SHARP, LINDA

Examiner

Peter Choi

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9, 10 and 28-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 10 and 28-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/15/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Art Unit: 3623

DETAILED ACTION

1. The following is a **FINAL** office action upon examination of application number 10/066,148. Claims 1-7, 9-10, and 28-32 are pending in the application and have been examined on the merits discussed below.

Response to Amendment

2. Claims 1 and 30 have been amended.
3. The previous rejection of claim 30 raised under 35 U.S.C. 112, second paragraph is withdrawn in view of claim amendments filed October 15, 2007.
4. The previous rejections of claims 1-7, 9-10 and 28-32 raised under 35 U.S.C. 101 are withdrawn in view of claim amendments filed October 15, 2007.

Response to Arguments

5. Applicant's arguments filed October 15, 2007 have been fully considered but they are not persuasive.

Applicant argues that Mulhern does not describe or suggest a method for managing marketing. Specifically, Applicant argues that Mulhern does not describe or suggest a method that includes creating a plurality of contact relationship categories, assigning a value to each contact relationship category, and determining a value of each actual contact relationship based on the assigned value of the contact relationship category corresponding to each actual contact relationship.

Art Unit: 3623

The Examiner respectfully disagrees. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The Examiner further notes that "managing marketing" need not be given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hira*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Further, Mulhern is directed towards measuring customer profitability by generalizing approaches to measuring customer lifetime value in direct marketing for broader target marketing applications [abstract]. Thus, the Examiner asserts that Mulhern is indeed directed towards managing marketing efforts of a company.

Applicant argues that neither Mulhern nor Walter, considered alone or in combination, describes or suggests a method for managing marketing. Specifically, Applicant argues that neither Mulhern nor Walter, considered alone or in combination, describes or suggests a method that includes creating a plurality of contact relationship categories, assigning a value to each contact relationship category, and determining a

Art Unit: 3623

value of each actual contact relationship based on the assigned value of the contact relationship category corresponding to each actual contact relationship.

The Examiner respectfully disagrees. The Examiner also notes that Walter was not relied upon in the rejection of claim 1; thus the argument is rendered moot.

Further, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The Examiner further notes that "managing marketing" need not be given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Further, Mulhern is directed towards measuring customer profitability by generalizing approaches to measuring customer lifetime value in direct marketing for broader target marketing applications [abstract]. Thus, the Examiner asserts that Mulhern is indeed directed towards managing marketing efforts of a company.

Art Unit: 3623

Applicant argues that neither Mulhern nor Boe, considered alone or in combination, describes or suggests a method for managing marketing. Specifically, Applicant argues that neither Mulhern nor Boe, considered alone or in combination, describes or suggests a method that includes creating a plurality of contact relationship categories, assigning a value to each contact relationship category, and determining a value of each actual contact relationship based on the assigned value of the contact relationship category corresponding to each actual contact relationship.

The Examiner respectfully disagrees. The Examiner also notes that Boe was not relied upon in the rejection of claim 1; thus the argument is rendered moot.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The Examiner further notes that "managing marketing" need not be given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Further, Mulhern is directed towards measuring customer profitability by generalizing

Art Unit: 3623

approaches to measuring customer lifetime value in direct marketing for broader target marketing applications [abstract]. Thus, the Examiner asserts that Mulhern is indeed directed towards managing marketing efforts of a company.

37 CFR § 1.105 – Requirement for Information

The Applicant's to the Requirement for Information under 37 CFR § 1.105 is acknowledged.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4, 7, 10 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Francis Mulhern's "Customer Profitability Analysis: Measurement, Concentration and Research Directions" (reference 1-V; hereafter referred to as Mulhern).

As per claim 1, Mulhern teaches a method for managing marketing comprising:

(a) creating a plurality of contact relationship categories **(The customer unit is the entity for which profitability is computed. Firms often distinguish different**

Art Unit: 3623

types of customers (e.g., consumer versus corporate customers); A profitability model may be constructed for both existing customers and prospective customers) [Pages 27, 28];

(b) **assigning a value to each contact relationship category (Customer profitability is the net dollar contribution made by individual customers to an organization) [Page 26];**

(c) **determining a value of each actual contact relationship based on the assigned value of the contact relationship category corresponding to each actual contact relationship (Separate profitability analysis can be performed for individual product lines or brands. Conversely, profitability analysis can be performed at an aggregate level such that every element of the relationship between an organization and a customer is included in a single profitability measure. From a relationship marketing perspective, all of the brands or products purchased should be included; profitability analysis can be performed at a variety of organizational levels; customers who are opinion leaders or market mavens, avid proponents of a product or brand to others may be valued at a level above what is represented by their own profit contribution; Customers can be evaluated based on present purchase behavior or of the anticipated future stream of purchases; The measurement problem involves determining the profitability of individual physicians so that marketing communications and personal selling efforts can be allocated accordingly.. Customer profit is computed by aggregating total prescription dollar volume and subtracting variable marketing costs; one may**

Art Unit: 3623

identify a best customers segment consisting of the highest-profit customers for whom extensive retention programs could be developed) {Page 30 teaches 2 formulas used to model customer lifetime value for individual customers} [Pages 28, 30, 31, 36]; and

(d) generating a contact summary report based on the determined value of each actual contact relationship **{Table 2 features a summary of descriptive statistics on customer profitability for physicians; the customer profitability of 834 individual physicians are aggregated to yield the summary report of Table 2} [Table 2, Page 31].**

As per claim 2, Mulhern teaches a method in accordance with claim 1 further comprising investing in customer relationships based on the determined value of each contact relationship **(marketing efforts are best directed at the most profitable consumers) [Page 26].**

As per claim 4, Mulhern teaches a method in accordance with claim 1 further comprising selecting a contact relationship strategy based on the perceived value of the relationship **(marketing efforts are best directed at the most profitable consumers) [Page 26].**

As per claim 7, Mulhern teaches a method in accordance with claim 1 wherein the contact relationship categories include at least one of a contact evolution level

Art Unit: 3623

(existing or prospective customers) and a relative interaction value (determining which customers are “active”) [Page 28].

As per claim 10, Mulhern teaches a method in accordance with claim 7 further comprising:

(a) obtaining actual contact relationship data from a tracking system **(customer profitability analysis now is possible because of the availability of large-scale customer databases containing a history of purchase transactions)** [Page 26];

(b) determining leading indicator metrics based on the obtained data **(customer profitability provides a metric for the allocation of marketing resources to consumers and market segments)** [Page 26]; and

(c) determining adjustments to be made to assigned contact relationship interaction values based on the leading indicator metrics **(customer profitability provides a metric for the allocation of marketing resources to consumers and market segments. Marketing efforts are best directed at the most profitable customers) {thus, the adjustment is made where marketing resources are concentrated in marketing efforts directed at the most profitable customers}** [Page 26].

As per claim 30, Mulhern teaches a method in accordance with claim 7 further comprising assigning a value to each interaction based on pre-determined relative

Art Unit: 3623

interaction values stored in the database (**More sophisticated customer databases contain data on the costs for marketing communications and other customer-specific variable costs**) [Page 29].

8. Claims 5,6, 28, 29, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulhern as applied to claim 1 above, and further in view of Walter et al. (US Patent #6,334,110).

As per claim 5, although not explicitly taught by Mulhern, Walter et al. teaches a method in accordance with claim 1 further comprising:

(a) tracking the results of the relationship evolution (**a campaign may be monitored. The campaign effectiveness is monitored weekly at 920**) [Column 7, lines 5-8];

(b) analyzing the results (**In step 350, statistics are gathered and analyzed to determine the effectiveness of the advertising campaign; The campaign effectiveness is monitored weekly at 920. In step 350, the results of the campaign are scored and the results are displayed so the analyst can decide whether the temporal campaign was successful. A campaign effectiveness score may be calculated**) [Column 4, lines 41-43, Column 7, lines 8, 21-26]; and

(c) developing leading indicator metrics based on the analysis (**At 1050 the number of offer viewings, unique viewings, number of sales per channel and the campaign effectiveness score is shown; The campaign is described at 1110 and a**

Art Unit: 3623

graph showing the number of units sold per quarter is shown at 1120) [Column 7, lines 26-36].

As per claim 6, Mulhern teaches a method in accordance with claim 5 further comprising:

(b) modifying the new marketing strategy to reduce risk and increase profits **(marketing efforts are best directed at the most profitable consumers)** [Page 26].

Walter et al. teaches the step of

(a) documenting benefits and leading indicator metrics to evaluate an impact of a new marketing strategy **(In step 350, statistics are gathered and analyzed to determine the effectiveness of the advertising campaign; The campaign effectiveness is monitored weekly at 920. In step 350, the results of the campaign are scored and the results are displayed so the analyst can decide whether the temporal campaign was successful. A campaign effectiveness score may be calculated)** [Column 4, lines 41-43, Column 7, lines 8, 21-26].

Both Mulhern and Walter et al. are directed towards customer analysis for targeted strategies. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Mulhern to include the step of documenting the impact of new marketing strategies, because doing so enables an analyst determine a change in profitability, and to notice purchasing trends to infer

Art Unit: 3623

future behavior, thereby enabling a marketing analyst to decide what products and offers might be good matches for specific customers (and like customers), which is a goal of Walter et al. [Column 5, lines 27-52, Column 6, lines 47-49], and further aligns with the teachings of Mulhern where different communication programs can be developed based on the actual, or projected, profitability of customers [Page 26].

As per claim 28, although not explicitly taught by Mulhern, Walter et al. teaches a method in accordance with claim 1 further comprising receiving contact information and storing the contact information to create a contact profile (**customer profiles 230**) and cross-referencing the contact profile against a unique identifier (**Willard's name and customer identification is entered and displayed at 510 and 520; Willard's name and customer identification are entered and displayed at 610 and 620. The system responds by presenting profiles of other customers who have similar browsing and purchasing behavior to Willard. These other customers are shown by customer name 630**) for easy retrieval and update [Column 6, lines 4-5, 34-38].

Both Mulhern and Walter et al. are directed towards customer analysis for targeted strategies. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Mulhern to include the step of creating contact profiles with a unique identifier using received contact information, because doing so allows presentation of other customers with similar browsing and purchasing behavior and customer value, thereby enabling a marketing analyst to

Art Unit: 3623

decide what products and offers might be good matches for specific customers (and like customers), which is a goal of Walter et al. [Column 6, lines 47-49], and further aligns with the teachings of Mulhern where different communication programs can be developed based on the actual, or projected, profitability of customers [Page 26].

As per claim 29, Mulhern teaches the availability of large-scale customer database containing a history of purchase transactions [Page 26], but does not explicitly teach that said customer databases record every transaction conducted with a contact.

However, Walter et al. teaches the step of recording every transaction conducted with the contact **[In step 310, a report of Willard's browsing or shopping behavior gathered from all three channels is assembled. Note that daily interactions through the three channels may be grouped into weekly, monthly, or annual profiles]** [Table 1, Column 4, line 49 – Column 5, line 25].

Both Mulhern and Walter et al. are directed towards customer analysis for targeted strategies. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Mulhern to include the step of creating a transaction log for each contact, because doing so enables an analyst to notice purchasing trends to infer future behavior, thereby enabling a marketing analyst to decide what products and offers might be good matches for specific customers (and like customers), which is a goal of Walter et al. [Column 5, lines 27-52, Column 6, lines

Art Unit: 3623

47-49], and further aligns with the teachings of Mulhern where different communication programs can be developed based on the actual, or projected, profitability of customers [Page 26].

As per claim 31, although not explicitly taught by Mulhern, Walter et al. teaches a method in accordance with claim 1 further comprising generating reports that help management improve upon a marketing strategy to reduce risk and maximize profits (**At 1050 the number of offer viewings, unique viewings, number of sales per channel and the campaign effectiveness score is shown; The campaign is described at 1110 and a graph showing the number of units sold per quarter is shown at 1120**) [Column 7, lines 26-36].

Both Mulhern and Walter et al. are directed towards customer analysis for targeted strategies. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Mulhern to include the step of generating reports, because doing so allows doing so enables an analyst to notice purchasing trends to infer future behavior, thereby enabling a marketing analyst to decide what products and offers might be good matches for specific customers (and like customers), which is a goal of Walter et al. [Column 5, lines 27-52, Column 6, lines 47-49], and further aligns with the teachings of Mulhern where different communication programs can be developed based on the actual, or projected, profitability of customers [Page 26].

Art Unit: 3623

As per claim 32, although not explicitly taught by Mulhern, Walter et al. teaches a method in accordance with claim 1 further comprising providing a detailed history of past interactions, current interactions, and planned interactions **[In step 310, a report of Willard's browsing or shopping behavior gathered from all three channels is assembled. Note that daily interactions through the three channels may be grouped into weekly, monthly, or annual profiles]** [Table 1, Column 4, line 49 – Column 5, line 25].

Both Mulhern and Walter et al. are directed towards customer analysis for targeted strategies. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Mulhern to include the step of creating a transaction log for each contact, because doing so allows doing so enables an analyst to notice purchasing trends to infer future behavior, thereby enabling a marketing analyst to decide what products and offers might be good matches for specific customers (and like customers), which is a goal of Walter et al. [Column 5, lines 27-52, Column 6, lines 47-49], and further aligns with the teachings of Mulhern where different communication programs can be developed based on the actual, or projected, profitability of customers [Page 26].

Art Unit: 3623

9. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulhern as applied to claim 1 above, and further in view of Boe et al. (US Patent #6,236,975).

As per claim 3, Mulhern does not explicitly teach a method in accordance with claim 1 further comprising modeling strategies in advance of investment by running reports based on status quo, best case scenario, and worst case scenario.

However, Boe et al. teaches a "what-if" page that allows the customer to make adjustments by changing his or her demographic parameters such as income level, number of children, and the like [Column 13, lines 8-11] and provides graphical reports that compare the customer's responses to the responses of other customers with the same demographics [Column 5, lines 6-9].

Both Mulhern and Boe et al. are directed towards customer analysis for targeted marketing. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Mulhern to include the step of "what-if" analysis reports concerning best and worst case scenario and maintaining the status quo, because doing so further enables businesses to target its marketing efforts to specific potential customers who may be more likely to purchase specific products or services than other potential customers, which is a goal of Boe et al. [Column 3, lines 39-43], and further aligns with the teachings of Mulhern where different communication

Art Unit: 3623

programs can be developed based on the actual, or projected, profitability of customers [Page 26].

As per claim 9, Mulhern does not explicitly teach a method in accordance with claim 7 further comprising obtaining information to generate assumptions regarding status quo, best case scenario, and worst case scenario.

However, Boe et al. teaches a "what-if" page that allows the customer to make adjustments by changing his or her demographic parameters such as income level, number of children, and the like [Column 13, lines 8-11].

Both Mulhern and Boe et al. are directed towards customer analysis for targeted strategies. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Mulhern to include the step of "what-if" analysis concerning best and worst case scenario and maintaining the status quo, because doing so further enables businesses to target its marketing efforts to specific potential customers who may be more likely to purchase specific products or services than other potential customers, which is a goal of Boe et al. [Column 3, lines 39-43], and further aligns with the teachings of Mulhern where different communication programs can be developed based on the actual, or projected, profitability of customers [Page 26].

Conclusion

Art Unit: 3623

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PC

January 4, 2008


BETH VAN DOREN
PRIMARY EXAMINER